

**DRAFT AMENDMENT UNDER 37 C.F.R. § 1.111**  
U.S. APPLICATION NO. 09/778,764  
ATTORNEY DOCKET NO. Q62997

**REMARKS**

Applicant thanks the Patent Office for acknowledging Applicant's claim to foreign priority, and for indicating that the certified copy of the priority document, European Patent Application No. 00400552.6 dated February 28, 2000, has been made of record in the file.

Applicant thanks the Examiner for initialing the references listed on the PTO-1449 form submitted with the Information Disclosure Statement filed on February 8, 2001, thereby confirming that the listed references have been considered. Applicant is including a clean copy of the Widjaja *et al.* reference that the Patent Office indicated was illegible.

The Patent Office objects to the Abstract of the Disclosure as being too lengthy under MPEP § 608.01(b). Applicant herein cancels the present Abstract, and substitutes therefore a new Abstract. No new matter has been added. Applicant submits that the objection to the Abstract has been overcome, and requests withdrawal of same.

Claims 1-24 have been examined on their merits.

Applicant herein cancels claims 2, 7 and 17 without prejudice and/or disclaimer, and adds their recitations to claims 1, 6 and 16, respectively.

Claims 1, 3-6, 9-16 and 18-24 are all the claims presently pending in the application.

1. Claim 1 stands objected to due to informalities. Applicant herein amends claim 1 to change "prioritised" to "prioritized." Applicant submits that the objection to claim 1 has been overcome, and requests withdrawal of same.

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2. Claims 1-4, 6-15, 23 and 24 stand rejected under 35 U.S.C. § 112 (2<sup>nd</sup> para.) as allegedly being indefinite. The rejection of claims 2 and 7 is now moot due to their cancellation. Applicant traverses the § 112 (2<sup>nd</sup> para.) rejection of claims 1, 3, 4, 6, 8-15, 23 and 24 for at least the reasons discussed below.

Applicant herein amends claims 1 and 6 to remove the phrase “such as any one of a slot and a bit” from the claim language. Applicant submits that the § 112 (2<sup>nd</sup> para.) rejection of claims 1, 3, 4, 6, 8-15, 23 and 24 has been overcome, and respectfully requests withdrawal of same.

3. Claims 1 and 2 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Calvignac *et al.* (U.S. Patent No. 5,557,608). The rejection of claim 2 is now moot due to its cancellation. Applicant traverses the § 102(b) rejection of claim 1 for at least the reasons discussed below.

To support a conclusion that a claimed invention lacks novelty under 35 U.S.C. § 102, a single source must teach all of the elements of a claim. *Hybritech Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 1379, 231 U.S.P.Q. 81, 90 (Fed. Cir. 1986). A claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Thus, the cited reference must clearly and unequivocally disclose every element and limitation of the claimed invention.

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Calvignac *et al.* fail to teach or suggest at least the adaptation of control data within the data traffic before transmission to comprise at least one reassembly indicator for use in reassembling the data traffic upon receipt, as recited in claim 1. Instead, Calvignac *et al.* disclose that if higher priority data traffic is going to interrupt lower priority data traffic, a trailer byte is inserted into the lower priority data traffic and a X'7E' flag is inserted into the data stream. *See, e.g.*, col. 5, lines 45-49 of Calvignac *et al.* Calvignac *et al.* do not teach or suggest that the inserted trailer byte is part of the control data within the data traffic itself, nor do Calvignac *et al.* teach or suggest that control data within the data traffic is modified with a reassembly indicator.

Based on at least the foregoing reasons, Applicant submits that claim 1 is allowable over Calvignac *et al.*, and requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claim 1.

2. Claim 16 stands rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Applicant's Admitted Prior Art (AAPA). Applicant traverses the § 102(a) rejection of claim 16 for at least the reasons discussed below.

The AAPA fails to teach or suggest at least control data within the data traffic that is adapted before transmission to comprise at least one reassembly indicator for use in reassembling the data traffic upon receipt, as recited in claim 1. The methods disclosed in the Background portion of the Applicant's disclosure involve the checking of header addresses or the buffering of higher priority traffic while lower priority traffic is transmitted. The AAPA does

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not teach or suggest that control data within the data traffic is modified with a reassembly indicator.

Based on at least the foregoing reasons, Applicant submits that claim 1 is allowable over the AAPA, and requests that the Patent Office reconsider and withdraw the § 102(b) rejection of claim 16.

3. Claims 3, 4 and 24 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Calvignac et al.* Applicant traverses the § 103(a) rejection of claims 3, 4 and 24 for at least the reasons discussed below.

Claims 3, 4 and 24 depend from claim 1, and incorporate all the recitations of claim 1 by virtue of their dependency. *Calvignac et al.* fail to teach or suggest at least the adaptation of control data within the data traffic before transmission to comprise at least one reassembly indicator for use in reassembling the data traffic upon receipt, as recited in claim 1. Instead, *Calvignac et al.* disclose that if higher priority data traffic is going to interrupt lower priority data traffic, a trailer byte is inserted into the lower priority data traffic and a X'7E' flag is inserted into the data stream. *See, e.g.*, col. 5, lines 45-49 of *Calvignac et al.* *Calvignac et al.* do not teach or suggest that the inserted trailer byte is part of the control data within the data traffic itself, nor do *Calvignac et al.* teach or suggest that control data within the data traffic is modified with a reassembly indicator.

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Based on at least the foregoing reasons, Applicant submits that claims 3, 4 and 24 are allowable over Calvignac *et al.*, and requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 3, 4 and 24.

4. Claims 5-15 and 17-23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over AAPA in view Calvignac *et al.* The rejection of claims 7 and 17 is now moot due to their cancellation. Applicant traverses the § 103(a) rejection of claims 5, 6, 8-15 and 18-23 for at least the reasons discussed below.

The combination of AAPA and Calvignac *et al.* fails to teach or suggest at least control data within the data traffic adapted, before transmission, to comprise at least one reassembly indicator for use in reassembling the data traffic upon receipt, as recited in claim 5. As discussed above, Calvignac *et al.* disclose that if higher priority data traffic is going to interrupt lower priority data traffic, a trailer byte is inserted into the lower priority data traffic and a X‘7E’ flag is inserted into the data stream. *See, e.g.*, col. 5, lines 45-49 of Calvignac *et al.* With respect to the AAPA, as previously discussed, the methods disclosed in the Background portion of the Applicant’s disclosure involve the checking of header addresses or the buffering of higher priority traffic while lower priority traffic is transmitted. The combination of AAPA and Calvignac *et al.* does not teach or suggest that the inserted trailer byte is part of the control data within the data traffic itself, nor does the combination of AAPA and Calvignac *et al.* teach or suggest that control data within the data traffic is modified with a reassembly indicator.

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Based on at least the foregoing reasons, Applicant submits that claim 5 is allowable over the combination of AAPA and Calvignac *et al.*, and requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claim 5.

With respect to independent claim 6, Applicant submits that claim 6 is allowable for at least reasons analogous to those discussed above with respect to claim 5. Applicant submits that claim 6 is allowable over the combination of AAPA and Calvignac *et al.*, and further submits that claims 8-15 and 23 are allowable as well, at least by virtue of their dependency from claim 6. Applicant requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 6, 8-15 and 23.

Claims 18-22 depend from claim 16, and incorporate all the recitations of claim 16 by virtue of their dependency. With respect to independent claim 16, Applicant submits that claim 16 is allowable for at least reasons analogous to those discussed above with respect to claim 5. Applicant submits that claim 16 is allowable over the combination of AAPA and Calvignac *et al.*, and further submits that claims 18-22 are allowable as well, at least by virtue of their dependency from claim 16. Applicant requests that the Patent Office reconsider and withdraw the § 103(a) rejection of claims 18-22.

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In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Paul J. Wilson  
Registration No. 45,879

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE  
23373  
CUSTOMER NUMBER

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